

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

EMANUEL HAWKINS, #238873	§	
VS.	§	CIVIL ACTION NO. 9:07cv69
STATE OF TEXAS, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Emanuel Hawkins, an inmate confined at the Polunsky Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil action. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the lawsuit should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. In his objections, the Plaintiff noted that he filed the lawsuit under the Texas Tort Claims Act. He acknowledged that the lawsuit should not have been filed in federal court, and he argued that the case should have been transferred to the proper court. The Plaintiff, however, may still file a lawsuit pursuant to the Texas Tort Claims Act in state court, but his complaint about the confiscation of his Jailhouse Lawyer's Manual does not provide a basis

for a potentially meritorious federal lawsuit. The lawsuit is frivolous. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the cause of action is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). The Plaintiff's Texas Tort Claims Act claims are **DISMISSED** without prejudice. It is further

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **15** day of **June, 2007**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge